

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1635.00
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: October 10, 2000
DATE OF REPORT: November 6, 2000
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: December 4, 2000

COMPLAINT ISSUES:

Whether the New Albany-Floyd County Consolidated Schools violated:

511 IAC 7-3-50 and 511 IAC 7-14-1(h) with regard to the student's teacher of record's alleged failure to fulfill the teacher of record responsibility of monitoring the implementation of the student's *individualized education program* (the "IEP") by the general education teachers, specifically, the student's physical education teacher during the 1999-2000 school year.

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *IEP* during the 1999-2000 school year, specifically, failing to provide an identified accommodation (ensuring that the student has assistance with making up class work).

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *IEP* during the 2000 summer school session.

511 IAC 7-4-1(b) and 511 IAC 7-3-23 with regard to the school's alleged failure to provide the student a free appropriate public education ("FAPE") during the 2000 summer school session.

FINDINGS OF FACT:

1. The student (the "Student") is 16 years old and is a junior at the local high school (the "School"). The Student is eligible for special education and related services as a student with a learning disability ("LD").
2. The Student's annual case review (the "ACR") for the 1999-2000 school year was held on April 15, 1999, and the *IEP* was written at that time. The Student's *IEP* indicates placement in general education for the entire instructional day, with modifications. The *IEP* also indicates that 14% of the instructional day was to be in special education through the resource study hall. Page five of the Student's IP states "Resource study hall-5 days/wk."
3. The *IEP* contains two annual goals. One of the annual goals states "[Student] will utilize resource study hall effectively." There are four short-term instructional objectives that pertain to the resource study hall. The other annual goal states "[Student] will maintain passing grades in all his classes." The short-term instructional objective states that the Student will use organization skills such as listing assignments in his planner; check, complete, and turn in work; and seek assistance when needed in order to pass classes.

4. The *IEP* indicates that the Student was in a general education physical education class. There are no goals or short-term instructional objectives indicated in the *IEP* for the Student with regard to the general education physical education class.
5. The *IEP* lists only four accommodations for the Student. Under Level of Support: Use assignment book. Under Assessment: Make accommodations in classroom setting (by allowing the Student to take tests in the special education room); orally administer the test, with exception to the reading portion; and allow the Student to respond orally and have answer filled in by another. No other accommodations are listed in any other part of the *IEP*, nor in either of the two Addendums.
6. The case conference committee (the "CCC") met on August 24, 1999, and an addendum (the "Addendum") was written to the *IEP*. The Addendum states that the "[Student] and his parents request regular study hall." Page two of the Addendum states that the CCC recommended the following. "Drop resource study hall-add regular study hall." At this time the Student's placement was changed to consultation. The Student's mother signed in agreement to this recommendation. No other changes were made to the Student's *IEP*.
7. The CCC met on January 13, 2000, and the Addendum written to the *IEP* states that the Student's grades and class work were discussed. The CCC recommended that the Student "pick up progress reports on Thursday so that he can take progress reports home every Friday." The CCC also recommended that special education progress reports be issued on January 29, 2000. The Student's mother signed in agreement to this recommendation. This was the only change made to the Student's *IEP*.
8. The Student's teacher of record (the "TOR") reported that all of the Student's teachers received a copy of the accommodations page of the *IEP*. This was disseminated within the first two weeks of the 1999-2000 school year and again at the beginning of the second semester.
9. The TOR also reported that the Student did not pass physical education because of negative behavior, skipping classes, not dressing for class, and absences that were not medically excused. The Student did have three medically excused absences; however, the TOR reported that even if the Student had made up those three absences he would not have passed the class.
10. The School's guide (the "Guide") for physical education states the following.

"Grades are based upon 100 points per 3 weeks - 300 points per 9 weeks - 600 points per semester, plus 100 points for the final exam (50 points for profile and 50 points for final running exam)."

Example: 90 points - participation (6 per day)
 10 points - attitude
 100 points - total points for 3 weeks
11. The Guide explains that the grading scale is based upon the point system for the three week and nine week intervals, the semester interval, and the final exam. It also explains the dress requirements, medical excuses, make-up days, the behaviors and reasons that constitute point deductions, in addition to other class information and expectations. The Complainant signed the Guide indicating understanding of all the rules for the physical education class, and it was returned to the physical education teacher.
12. The Student's ACR for the 2000-01 school year met on April 5, 2000. At that meeting, extended school year services were not recommended by the CCC, nor is there any reference in the *IEP* that the Student should attend summer school.
13. The local director of special education (the "Director") reported that parents of students with learning disabilities who inquire about summer school are told that there is no restriction on their child

attending summer school, but that no resource room services are offered or special education teachers hired during the summer unless these services are identified in the *IEP*.

CONCLUSIONS:

1. Findings of Fact #3 and #6 indicate that, after the CCC met on August 24, 1999, to change the Student's resource study hall to the regular study hall, the Student had only one annual goal and one short-term instructional objective. The goal and objective pertained to passing all classes, specifically requiring the Student "to seek assistance when needed in order to pass classes." Finding of Fact #4 indicates that the Student was in a general education physical education class, and there were no goals and objectives indicated in the *IEP* for that class. Findings of Fact #5 and #8 indicate that the *IEP* contained only four accommodations, none which pertained to ensuring that the Student had assistance making up class work, and the TOR disseminated the accommodations page of the *IEP* to all of the Student's teachers. Further, Findings of Fact #9, #10, and #11 indicate that, even had the Student completed make-up work, the Student would not have passed physical education because of various behaviors that resulted in the deductions of points. No violations of 511 IAC 7-3-50, 511 IAC 7-14-1(h), or 511 IAC 7-12-1 occurred.
2. Findings of Fact #12 and #13 indicate that, although there is no restriction for the provision of special education services for summer school if it is determined appropriate by a CCC, the Student's CCC did not recommend extended school year services, nor summer school. Further, there was nothing included in the Student's *IEP* to indicate that the CCC recommended the Student should attend summer school. No violations of 511 IAC 7-12-1, 511 IAC 7-4-1(b), or 511 IAC 7-3-23 occurred.

The Department of Education, Division of Special Education requires no corrective action based on the Findings of Fact and Conclusions listed above.